IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928

CRP.No. 4 of 1999(B)

SM.60/76/B/ of TALUK LAND BOARD, TIRUR
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REVN. PETITIONERS:
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1. KARUKAYIL BALAN, S/OL.KARUKAYIL KUNHIKRISHNAN, PURATHUR VILLAGE, PADINHAREKKARA, TIRUR, MALAPPURAM.

2. KARUKAYIL MADHU, S/O. KARUKAYIL BALAN, -DO- -DO-

BY ADV. SRI.A.P.CHANDRASEKHARAN (SR.)
SMT.PRABHA R.MENON
SRI.KODOTH PUSHPARAJAN
SRI.M.KRISHNAKUMAR(MOHANKUMAR ASSOCIATES

RESPONDENTS:
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1. THE TALUK LAND BOARD, TIRUR.

2. THE LTAHSILDAR, TIRUR.

3. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVT. OF KERALA, TRIVANDRUM.

4. PRADEEP, S/O.KARUKAYIL BALAN, PURATHUR VILLAGE, PADINHAREKKARA, TIRUR, MALAPPURAM.

R1TO R3 BY GOVERNMENT PLEADER SHYSON MANGUZHA
R4 BY ADV. SRI.K.SANEESH KUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP.NO.6/99 IN CRP.NO.4/99

Dismissed

19/2/2007 Sd/- P.R.RAMAN, JUDGE.

P.R.RAMAN,J.

C.R.P.NO.4 OF 1999

Dated this the 19th day of February, 2007

O R D E R

This revision is filed at the instance of the land holder against the order of the Taluk Land Board, Tirur in S.M.No.60/76/B. It is found that he is in possession of excess land and was directed to surrender such excess land. One of the grounds urged is that the property in R.S.No.38/7A1 ordered to be surrendered does not belong to the assessee as on 1/1/1970. It is purely a question of fact. The Taluk Land Board found based on the authorised officer's report and attendant evidence that it is too late for the petitioners to contend against such finding. Likewise an extent of 2.27 acres of land in R.S.No.38/7A1 was ordered to be surrendered

whereas in the earlier proceedings only an extent of 1.43 acres of land was ordered to be surrendered. This is not substantiated. It is contended that though there is an anomaly, this is a matter which the petitioners can bring to the notice of the Taluk Land Board, if there is any error apparent on the face of the record in this regard. The prime contention, however, is that certain items of properties included in the ceiling case of the petitioners were after rejecting the claim made by the third parties seeking exclusion of those properties. The Land Board rejected their contention on the ground that the said properties were purchased by them based on the documents executed after 1/1/1970. But the grievance of the petitioners is that once such lands treated as belonging to the petitioners,

the Land Board ought to have directed to surrender the said land instead of other land belonging to the petitioners. I am not impressed with this contention. If at the time of surrender these lands were not in the possession of the petitioners therein, it is open to the authorities to take lands which were actually in the possession of the account holder. As per the provisions of the Kerala Land Reforms Act, at the time of surrendering only the lands as far as possible which were in possession of the land holder will be ordered to be surrendered. At any rate, in this case connected C.R.Ps. were already allowed at the instance of the third parties, in view of the new provisions contained in Section 7E inserted by Act 21/2006. Hence, if those transactions are valid in view of the

new provision, necessarily there will be deduction in the extent of the excess land in the possession of the petitioners. Hence, the order of the Taluk Land Board is set aside.

In the result, this revision is allowed by way of remand to the Taluk Land Board to be considered along with other connected cases and to pass fresh orders in accordance with law.

P.R.RAMAN,
Judge.

kcv.

P.R.RAMAN, J.

C.R.P.NO.4 OF 1999

O R D E R

19th February, 2007